

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

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JEAN M. DELVA

Plaintiff,

- against-

STEWART & ASSOCIATES, P.C.  
and CREDIGY SERVICES CORP.

Defendants.  
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CASE NO. CV 04 0597

JUDGE JOHNSON

CHIEF MAGISTRATE JUDGE AZRACK

**ANSWER**

Now comes Defendant Credigy Services Corp. ("Defendant"), by and through counsel, and responds to the Class Action Complaint and Jury Demand of Plaintiff Jean M. Delva ("Plaintiff") as follows:

**"INTRODUCTION"**

1. Defendant admits with respect to the allegations set forth in Paragraph 0.1 of the Complaint that the Plaintiff purports to bring this action as a class action and purports to assert claims seeking damages arising out of alleged violations of the Fair Debt Collection Practices Act. Further answering, Defendant denies each and every allegation set forth in Paragraph 0.1 not specifically admitted here to be true.

**"PARTIES"**

2. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 0.2 of the Complaint.

3. Defendant denies the allegations contained in Paragraph 0.3 of the Complaint.

4. Defendant denies the allegations contained in Paragraph 0.4 of the Complaint.

5. The allegations set forth in Paragraph 0.5 of the Complaint state legal conclusions to which no response is required. To the extent that a response is required, Defendant denies these allegations.

“JURISDICTION”

6. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 0.6 of the Complaint.

“AS AND FOR A FIRST CAUSE OF ACTION”

7. The allegation in Paragraph 1.1 of the Complaint is a summary restatement to which no response is required. To the extent that a response is required, Defendant denies these allegations.

8. Defendant denies the allegations in Paragraph 1.2 of the Complaint.

9. Defendant states that Paragraph 1.3 of the Complaint contains an allegation of fact that is vague and unclear as to which answering Defendant is referenced. To the extent it contains any allegation concerning the answering Defendant, said allegation is denied.

10. Defendant denies the allegations contained in Paragraph 1.4.

11. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 1.5 of the Complaint.

12. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 1.6 of the Complaint.

13. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 1.7 of the Complaint.

14. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 1.8 of the Complaint.

15. Defendant denies the allegations in Paragraph 1.9 of the Complaint.

16. The allegations set forth in Paragraph 1.10 of the Complaint state legal conclusions to which no response is required. To the extent that a response is required, Defendant denies these allegations.

17. The allegations set forth in Paragraph 1.11 of the Complaint state legal conclusions to which no response is required. To the extent that a response is required, Defendant denies these allegations.

18. Defendant denies the allegations in Paragraph 1.12.

19. Defendant denies the allegations in Paragraph 1.13 of the Complaint.

20. Defendant states that Paragraph 1.14 of the Complaint contains allegations of fact that are vague and unclear as to which answering Defendant is referenced. Further answering, the allegations are denied.

21. Defendant denies the allegations in Paragraph 1.15 of the Complaint.

22. The allegations set forth in Paragraph 1.16 of the Complaint state legal conclusions to which no response is required. To the extent that a response is required, Defendant denies these allegations.

23. Defendant admits with respect to the allegation set forth in Paragraph 1.17 of the Complaint that the Plaintiff purports to bring this action as a class action. Defendant incorporates by reference its responses to Paragraphs 0.1 through 1.16 as if fully set forth here.

24. Defendant denies the allegations set forth in Paragraph 1.18 of the Complaint.

25. The allegations set forth in Paragraph 1.19 of the Complaint state legal conclusions to which no response is required. To the extent that a response is required, Defendant denies these allegations.

26. Defendant admits with respect to the allegation set forth in Paragraph 1.20 of the Complaint that the Plaintiff purports to bring this action as a class action. Defendant incorporates by reference its responses to Paragraphs 0.1 through 1.19 as if fully set forth here.

27. Defendant denies the allegations set forth in Paragraph 1.21 of the Complaint.

28. The allegations set forth in Paragraph 1.12 of the Complaint state legal conclusions to which no response is required. To the extent that a response is required, Defendant denies these allegations. Defendant will continue to respond to Plaintiff's allegations in the erroneous number order set forth by Plaintiff. Defendant's responses set forth hereafter are not to be confused with those identified to identically numbered allegations hereinabove.

29. Defendant denies the allegations set forth in Paragraph 1.13 of the Complaint. Further answering, Defendant denies each and every allegation set forth in Paragraph 1.13(A), 1.13(B), 1.13(C), 1.13(D), and 1.13(E) individually and in their entirety.

30. Defendant denies the allegations set forth in Paragraph 1.14 of the Complaint.

31. Defendant states that Paragraph 1.15 of the Complaint purports to make a statement of purpose to which no response is required. Further answering, Defendant incorporates by reference its responses to Paragraphs 0.1 through 1.14 as if fully set forth here.

32. The allegations set forth in Paragraph 1.16 of the Complaint purports to state a legal conclusions to which no response is required. To the extent that a response is required, Defendant denies these allegations.

33. Defendant denies the allegations in Paragraph 1.17 of the Complaint. Further answering, Defendant denies the allegations in Paragraph 1.17(a) of the Complaint.

34. The allegations set forth in Paragraph 1.18 of the Complaint state legal conclusions to which no response is required. To the extent that a response is required, Defendant denies these allegations.

**FIRST AFFIRMATIVE DEFENSE**

35. Plaintiff's Complaint fails to state a claim upon which relief can be granted.

**SECOND AFFIRMATIVE DEFENSE**

36. Plaintiff's claims are barred because she has not suffered any actual injury or damage.

**THIRD AFFIRMATIVE DEFENSE**

37. Plaintiff's claims are barred by the doctrines of laches and/or unclean hands.

**FOURTH AFFIRMATIVE DEFENSE**

38. Plaintiff's action is not entitled to class certification pursuant to Federal Rule of Civil Procedure 23, and the Plaintiff is not a proper representative of any purported class.

**FIFTH AFFIRMATIVE DEFENSE**

39. Plaintiff's claims are barred by her failure to join a necessary and/or indispensable party.

**WHEREFORE**, having answered fully, Defendant Credigy Services Corp. respectfully prays that this Court:

1. Enter judgment in its favor dismissing all claims here with prejudice;
2. Award it costs and expenses, including reasonable attorneys' fees; and
3. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

/s/ Dennis W. Light

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### **CERTIFICATE OF SERVICE**

A copy of the foregoing Answer was filed electronically the 26<sup>th</sup> day of April, 2004, in accordance with the Court's electronic filing system guidelines. Parties will receive notice of this filing by operation of the Court's system. Parties may access this filing through the Court system.

/s/ Dennis W. Light

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